

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE APRIL 23, 2013

**SENATE BILL**

**No. 553**

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**Introduced by Senator Yee**

February 22, 2013

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An act to add Section 53755.5 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 553, as amended, Yee. Local government: assessment: elections procedures.

Articles XIII C and XIII D of the California Constitution generally require that assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of written notice and the holding of a public hearing. Existing law, the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions to comply with Articles XIII C and XIII D of the California Constitution.

Existing statutory law provides notice, protest, and hearing procedures for the levying of new or increased assessments, fees, and charges by local government agencies pursuant to Articles XIII C and XIII D of the California Constitution.

This bill would, where a proposed fee or charge is submitted to the ~~electorate~~ *registered voters residing in the affected area* for approval, require a county elections official to conduct that election. This bill would also require, if a local government agency opts to submit the proposed fee or charge for approval by a vote of the subject property

owners, as provided, that specified procedures be applied regarding the form and tabulation of ballots. The bill would become operative on July 1, 2014.

By creating new requirements for property assessments conducted by counties and cities, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 53755.5 is added to the Government  
2 Code, to read:

3 53755.5. When an agency proposes to impose or increase any  
4 fee or charge subject to Section 6 of Article XIII D of the California  
5 Constitution that is not exempt from the requirements of  
6 subdivision (c) of Section 6 of Article XIII D of the California  
7 Constitution, the following procedures, in addition to any other  
8 procedures adopted by the agency pursuant to subdivision (c) of  
9 Section 6 of Article XIII D of the California Constitution, shall  
10 apply to the election:

11 (a) If the agency opts to submit the proposed fee or charge for  
12 approval by a two-thirds vote of the ~~electorate~~ *registered voters*  
13 residing in the affected area, the election shall be conducted by  
14 the agency's elections official or his or her designee. If the election  
15 is conducted by the county elections official, the agency, if other  
16 than the county, shall reimburse the county for the actual and  
17 reasonable costs incurred by the county elections official in  
18 conducting the election.

19 (b) If the agency opts to submit the proposed fee or charge for  
20 approval by a majority vote of the property owners who will be  
21 subject to the fee or charge, then in addition to the procedures set

1 forth in Section 6 of Article XIID of the California Constitution,  
2 the following procedures shall apply to the election:

3 (1) On the face of the envelope in which the notice of election  
4 and ballot are mailed, there shall appear in substantially the  
5 following form in no smaller than 16-point bold type: “OFFICIAL  
6 BALLOT ENCLOSED.” Below that, an agency may repeat the  
7 phrase “OFFICIAL BALLOT ENCLOSED” in a language or  
8 languages other than English.

9 (2) The ballot shall include the agency’s address for return of  
10 the ballot, the date and location where the ballots will be tabulated,  
11 and a place where the person returning it may indicate his or her  
12 name, a reasonable identification of the parcel, and his or her  
13 support or opposition to the proposed fee. The ballots shall be  
14 tabulated in a location accessible to the public. The ballot shall be  
15 in a form that conceals its content once it is sealed by the person  
16 submitting it. The ballot shall remain sealed until the ballot  
17 tabulation pursuant to paragraph (3) commences.

18 (3) An impartial person designated by the agency who does not  
19 have a vested interest in the outcome of the proposed fee shall  
20 tabulate the ballots submitted in support of or opposition to the  
21 proposed fee. For the purposes of this section, an impartial person  
22 includes, but is not limited to, the clerk of the agency. If the agency  
23 uses agency personnel for the ballot tabulation, or if the agency  
24 contracts with a vendor for the ballot tabulation and the vendor or  
25 its affiliates participated in the research, design, engineering, public  
26 education, or promotion of the fee, the ballots shall be unsealed  
27 and tabulated in public view to permit all interested persons to  
28 meaningfully monitor the accuracy of the tabulation process.

29 (4) The ballot tabulation may be continued to a different time  
30 or different location accessible to the public, provided that the time  
31 and location are announced at the location at which the tabulation  
32 commenced and posted by the agency in a location accessible to  
33 the public. The impartial person may use technological methods  
34 to tabulate the ballots, including, but not limited to, punchcard or  
35 optically readable (bar-coded) ballots. During and after the  
36 tabulation, the ballots and, if applicable, the information used to  
37 determine the weight of each ballot, shall be treated as public  
38 records, as defined in Section 6252, subject to public disclosure  
39 and made available for inspection by any interested person. The  
40 ballots shall be preserved for a minimum of two years, after which

1 they may be destroyed as provided in Sections 26202, 34090, and  
2 60201.

3 (c) The proceedings described in subdivision (b) shall not  
4 constitute an election or voting for purposes of Article II of the  
5 California Constitution or of the Elections Code.

6 (d) This section shall become operative on July 1, 2014.

7 SEC. 2. If the Commission on State Mandates determines that  
8 this act contains costs mandated by the state, reimbursement to  
9 local agencies and school districts for those costs shall be made  
10 pursuant to Part 7 (commencing with Section 17500) of Division  
11 4 of Title 2 of the Government Code.